

TMH/nf 12/12/05 462099.doc 81601-16
PATENTAttorney Reference Number 4810-56910-01
Application Number 09/733,507Remarks

Prior to this amendment, claims 1-9, 11-15, 18, 20-22 and 27-46 were pending. Claims 1-9, 11-15, 18, 20-22 and 27-30, 32 and 34-44 and 46 are rejected. Claims 31 and 33 are "objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims."

By this amendment, claims 1, 28, 31, and 33 are amended, and claims 4, 15, 18, 20-22, 27, 30, 32, 34-44, and 46 are cancelled. Entry of this amendment is appropriate after final rejection because it enters suggestions made by the examiner, cancels claims, and/or places the application in better condition for an appeal should such become necessary.

No new matter has been added by this amendment. After entry of this amendment, claims 1-3, 5-9, 11-14, 28, 29, 31, 33, and 45 are pending. Unless specifically stated otherwise, none of these amendments, additions, or arguments made herein are intended to limit the scope of any claim. Applicants expressly reserve the right to pursue protection of any and all of the removed subject matter at a later date.

Telephone Interviews

Applicants thank Examiner Collins for taking the time for two short telephone interviews with their undersigned representative on October 7 and October 14, 2005. During those interviews, an amendment to claim 1 was discussed, which amendment was intended to overcome the pending prior art rejections. Applicants proposed to add the phrase "bind to a plant cyclin-dependent protein kinase or a plant cyclin to" to claim 1. After discussing support for this amendment with Applicants' representative, the Examiner indicated that the amendment overcame the cited references. The agreed-upon change is entered into claim 1 by this amendment.

Claim Objections

Claims 34, 37, 39, and 40 have been cancelled, rendering the objection to these claims moot.

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Claim Rejections: 35 U.S.C. §112 (1st paragraph)

Claims 34 and 37, and all of the claims dependent therefrom, have been cancelled, rendering the rejection of these claims for the addition of alleged new matter moot.

Claim 46 also has been cancelled, rendering moot the written description rejection of this claim (based on the term "Cip/Kip").

Claims 1-9, 11-15, 18, 20-22, 27, 30, 32, 35 and 36 are rejected on the ground that there is not sufficient written description to support the invention as claimed. The specific rejections were enumerated in prior communications, as were Applicants' prior responses. Similarly, claims 1-9, 11-15, 18, 20-22, 27-30, 32, 35-40, and 46 are rejected on the ground that there is not sufficient enablement for the breadth of the claims.

By this amendment, claims 4, 15, 18, 20-22, 27, 30, 32, 34-44, and 46 are cancelled, rendering the written description and enablement rejections of these claims moot.

Claim 1 has been amended herewith to specify that the claimed method is drawn to use of "a nucleic acid encoding a plant cyclin-dependent kinase inhibitor polypeptide to produce a transformed plant cell, wherein the nucleic acid comprises the nucleic acid sequence set forth in SEQ ID NO: 1, SEQ ID NO: 3, or a nucleic acid sequence having at least 95% sequence identity with the nucleic acid sequence set forth in SEQ ID NO: 1 or SEQ ID NO: 3 . . . wherein the plant cyclin-dependent kinase inhibitor polypeptide is expressed in a proliferative tissue of the transformed plant to bind to a plant cyclin-dependent protein kinase or a plant cyclin to inhibit development of a differentiated tissue in the plant." This now limits the claim (and all claims that depend therefrom) to subject matter that is supported by clear written description and enablement in the specification as filed. Applicants therefore request that the rejections of claim 1, and the pending dependent claims (2, 3, 5-9, 11-14, 28, and 29), be withdrawn.

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Claim Rejections: 35 U.S.C. §112 (2nd paragraph)

Without conceding that the use of parentheses in claims 39 and 40 renders them indefinite, Applicants note that these claims are cancelled herein, rendering this rejection moot.

Claim Rejections: 35 U.S.C. §102

Claims 1, 8, 9, 15, 18, and 20-22 stand rejected for allegedly being anticipated by USPN 5,750,862 and/or USPN 6,087,175. Without admitting that the cited reference anticipates these claims, and only to advance prosecution in this application, Applicants have amended claim 1 so that it is directed to a method wherein "the plant cyclin-dependent kinase inhibitor polypeptide is expressed in a proliferative tissue of the transformed plant to bind to a plant cyclin-dependent protein kinase or a plant cyclin to inhibit development of a differentiated tissue in the plant." This amendment is supported by the specification as originally filed at least at pages 26-27, as well as in the first paragraph of page 3.

This amendment and the support therefor were discussed during the telephone interviews in October, during which the Examiner agreed that the amendment overcame the prior art rejections and that it was supported by the specification. Applicants therefore request that the rejection based on USPN 5,750,862 and/or USPN 6,087,175 be withdrawn.

Allowable Subject Matter

Applicants thank Examiner Collins for indicating that the subject matter of claims 31 and 33 would be allowable if rewritten in independent form, including all of the limitations of the base and intervening claims. By this amendment, claims 31 and 33 have been amended to include the limitations of claims 30 and 32, respectively (which claims have then been cancelled). Applicants request that amended claims 31 and 33 be indicated as allowed in the next Office communication.

Applicants note that no objections to or rejections of claim 45 are pending. It is requested that this claim be indicated to be allowed in the next Office communication. If the claim in fact was intended to have been rejected, Applicants request that prosecution be re-opened and a new response date set in order for any issues to be fully and adequately addressed.

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Based on the foregoing amendments and arguments, the claims are in condition for allowance and notification to this effect is requested.

If any issues remain, the Examiner is formally requested to contact the undersigned attorney (direct) at 503-595-8583 prior to issuance of an Advisory Action, in order to arrange a telephonic interview. It is believed that a discussion of the merits of the present application may expedite prosecution. Applicants submit the foregoing Amendment so that the Examiner may fully evaluate Applicants' position, thereby enabling any such interview to be more focused. This request is being submitted under MPEP § 713.01, which indicates that an interview may be arranged in advance by a written request.

Respectfully submitted,

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